

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:00-00000

Chapter

#0.00 Hearings on this calendar will be conducted using ZoomGov video and audio.

For information about appearing in person (or a hybrid hearing) please visit <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert>.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

[https://cacb.zoomgov.com/j/160 738 7661](https://cacb.zoomgov.com/j/160%20738%207661)

ZoomGov meeting number: 160 738 7661

Password: 254672

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT...

Chapter

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828
7666

For more information on appearing before Judge Albert by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Theodor C. Albert's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect early so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT...

Chapter

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:17-10976 Zia Shlaimoun

Chapter 7

Adv#: 8:19-01045 Thomas H. Casey, Trustee of the Zia Shlaimoun Ch. v. Shlaimoun et al

#1.00 STATUS CONFERENCE RE: Chapter 7 Trustee's Complaint Against Heyde Management, LLC For: 1) Avoidance of a Transfer of Property Pursuant to Section 547(b); 2) Avoidance of a Transfer of Property Pursuant to 11 U.S.C. Section 548; 3) Avoidance of a Transfer of Property Pursuant to 11 U.S.C. Section 549; 4) Recovery of Avoided Transfer Pursuant to 11 U.S.C. Section 550 (cont'd from 5-13-21 per another summons issued on 5-11-21) (rescheduled from 5-6-21 per court) (cont'd from 10-14-21 per another summons issued on 10-12-21)

Docket 1

Courtroom Deputy:

Tentative Ruling:

Tentative for 1/6/22:
Status?

Tentative for 12/10/20:
Continue to March 11, 2021 @ 10:00 a.m.

Tentative for 10/8/20:
Status on answers/defaults?

Tentative for 7/23/20:
Status?

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT... Zia Shlaimoun

Chapter 7

Tentative for 3/5/20:
What is status of answer/default?

Tentative for 11/7/19:
Why no status report?

Party Information

Debtor(s):

Zia Shlaimoun

Represented By
Charles Shamash

Defendant(s):

Zumaone LLC, a California limited	Pro Se
New Era Valet LLC, a limited	Pro Se
Jensen Investment Group LLC, a	Pro Se
Goldstar Laboratories Missouri	Pro Se
Goldstar Laboratories LLC, a	Pro Se
Gold Star Health, LLC, a limited	Pro Se
Gold Star Group, LLC, a Delaware	Pro Se
40355 La Quinta Palmdale LLC, a	Pro Se
328 Bruce LLC, a limited liability	Pro Se
Aksel Ingolf Ostergard Jensen	Pro Se
Oussha Shlaimoun	Pro Se
Nico Aksel Leos Shlaimoun	Pro Se
Helen Shlaimoun	Pro Se
Go Gum, LLC, a Delaware limited	Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT... Zia Shlaimoun

Chapter 7

Plaintiff(s):

Thomas H. Casey, Trustee of the Zia

Represented By
Michael J Lee

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey
Kathleen J McCarthy
Michael Jason Lee
Sunjina Kaur Anand Ahuja

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:19-12736 Christina Stolze Lopez

Chapter 7

Adv#: 8:20-01114 Kosmala v. Lopez

#2.00 STATUS CONFERENCE RE: Complaint For Judgment: (1) Avoiding Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(A); (2) Avoiding Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(B); (3) Recovery Of Fraudulent Transfer Pursuant To 11 U.S.C. § 550; (4) Preserving Fraudulent Transfer Pursuant To 11 U.S.C. § 551; (5) For Imposition Of Resulting Trust; (6) For Declaratory Relief; (7) Turnover Of Property Of The Estate Pursuant To 11 U.S.C. § 542(A); And (8) For Authorization To Sell Real Property In Which Co-Owner Holds Interest Pursuant To 11 U.S.C. § 363(H)
(set per another summons issued 8-5-2020)
(cont'd from 10-7-21 per order on stip. to cont. s/c entered 9-27-21)

Docket 1

***** VACATED *** REASON: OFF CALENDAR PER ORDER
APPROVING STIPULATION FOR ORDER DISMISSING ADVERSARY
PROCEEDING WITH PREJUDICE ENTERED 11-23-2021 - (DOCKET
NO. [33])**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christina Stolze Lopez

Represented By
Timothy McFarlin

Defendant(s):

Dario Lopez

Represented By
Vanessa M Haberbush

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT... **Christina Stolze Lopez**

Chapter 7

Reem J Bello
Ryan W Beall

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:19-12273 Eric Douglas Ford

Chapter 7

Adv#: 8:21-01029 Kosmala v. Ford

#3.00 STATUS CONFERENCE RE: Complaint: (1) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(a)(1)(A); (2) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 544(b) And CAL. CIV. CODE § 3439.04(a)(1); (3) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(a)(1)(B); (4) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 544(b) AND CAL. CIV CODE §§ 3439.04(a)(2) And 3439.05(a); (5) For Recovery Of Avoided Transfer Pursuant To 11 U.S.C. § 550; (6) To Preserve Transfer For The Benefit Of The Estate Pursuant To 11 U.S.C. § 551; (7) For Authorization To Sell Real Property In Which Co-Owner Holds Interest Pursuant To 11 U.S.C. § 363(h); (8) For Turnover Of Property Of The Estate Pursuant To 11 U.S.C. § 542; And (9) For Authorization To Pay Costs Of Sale Pursuant To 11 U.S.C. § 363(j)
(cont'd from 8-26-21)

Docket 1

***** VACATED *** REASON: CONTINUED TO 4-07-22 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO CONTINUE STATUS
HEARING AND TO EXTEND TIME TO COMPLETE MEDIATION
ENTERED 12-27-21**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 8/26/21:

Continue status conference about 120 days. Send to mediation, which is to occur within that period. Status Conference continued to: January 6, 2022.

Appearance: required

Party Information

Debtor(s):

Eric Douglas Ford

Represented By
J Scott Williams

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT... Eric Douglas Ford

Chapter 7

Defendant(s):

Joan Riley Ford

Pro Se

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Jeffrey I Golden

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Erin P Moriarty

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:20-11631 Hoan Dang

Chapter 7

Adv#: 8:21-01038 Naylor v. Nicholson Construction Company

**#4.00 STATUS CONFERENCE RE: Complaint: (1) Breach Of Contract; (2) Unjust Enrichment; (3) Quantum Meruit; And (4) Turnover
(another summons issued on 7-08-21)
(cont'd from 11-04-21 per order on stip. to cont. s/c entered 10-25-21)**

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 1/6/22:
Compromise order has been uploaded? Off calendar?

Tentative for 9/9/21:
Continue as a status conference about 90 days to allow arbitration?

Party Information

Debtor(s):

Hoan Dang

Represented By
James C Bastian Jr

Defendant(s):

Nicholson Construction Company

Pro Se

Joint Debtor(s):

Diana Hongkham Dang

Represented By
James C Bastian Jr

Plaintiff(s):

Karen Sue Naylor

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT...

Hoan Dang

Nathan F Smith

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Represented By

Nathan F Smith

Arturo Cisneros

James C Bastian Jr

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:18-10762 Jack Richard Finnegan

Chapter 7

Adv#: 8:21-01056 United States Trustee v. Finnegan

**#5.00 STATUS CONFERENCE RE: Complaint Objecting To Discharge Pursuant To
11 USC Section 727
(cont'd from 11-10-21)**

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 1/6/22:
See #10.

Tentative for 11/10/21:
Continue to December 9, 2021 @ 10:00AM to allow time to process default.

Party Information

Debtor(s):

Jack Richard Finnegan	Pro Se
-----------------------	--------

Defendant(s):

Jack Richard Finnegan	Pro Se
-----------------------	--------

Plaintiff(s):

United States Trustee	Represented By Frank Cadigan
-----------------------	---------------------------------

Trustee(s):

Richard A Marshack (TR)	Represented By D Edward Hays Laila Masud
-------------------------	--

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:21-12243 Jeffrey Pipp Bauman

Chapter 13

Adv#: 8:21-01089 Bauman v. Open Door Property Aquisition LLC

**#6.00 STATUS CONFERENCE RE: Complaint For Fraud, Injunctive Relief And
Stipulation To Quiet Title**

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 1/6/22:

Why no status report? The underlying bankruptcy has been dismissed.

Should this case also be dismissed, via OSC?

Party Information

Debtor(s):

Jeffrey Pipp Bauman

Pro Se

Defendant(s):

Open Door Property Aquisition LLC

Pro Se

Plaintiff(s):

Jeffrey Bauman

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:21-11753 Carol Y. Kim

Chapter 7

Adv#: 8:21-01093 Balesh et al v. Kim et al

#7.00 STATUS CONFERENCE RE: Complaint Pursuant To 11 USC Sections 523(a) and (727)(a) To: (1) Recover Money Or Property; (2) Object To Discharge; And (3) To Determine Dischargeability Of Debt

Docket 1

***** VACATED *** REASON: OFF CALENDAR - CASE DISMISSED
PER NOTICE OF VOLUNTARY DISMISSAL OF ADVERSARY
PROCEEDING INVOLVING CLAIMS UNDER SECTIONS 523 AND 727
FILED BY BALESH LAW GROUP, PC AND JAMES R. BALESH FILED
10-18-21**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carol Y. Kim

Represented By
Sevan Gorginian

Defendant(s):

Carol Y. Kim

Pro Se

Alex Kim

Pro Se

Joint Debtor(s):

Alex Kim

Represented By
Sevan Gorginian

Plaintiff(s):

James R. Balesh

Represented By
James R Balesh

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT... **Carol Y. Kim**
Balesh Law Group, PC

Represented By
James R Balesh

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:10-26382 Fariborz Wosoughkia

Chapter 7

Adv#: 8:20-01028 Marshack v. Rowshan et al

#8.00 PRE-TRIAL CONFERENCE RE: Complaint for: 1) Avoidance of Unauthorized Post-Petition Transfer (11 USC Section 549); 2) Recovery of Avoided Transfers (11 USC Section 550); 3) Turnover of Property of the Estate; 4) Quiet Title to Real Property and 5) Injunctive Relief
(set from s/c hrg held 6-24-21)
(re-scheduled from 12-23-21 court's own mtn)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 1/6/22:
Continue approximately 90 days.

Tentative for 6/24/21:
Deadline for completing discovery: November 1, 2021
Last date for filing pre-trial motions: December 10, 2021
Pre-trial conference on: December 23, 2021 @ 10:00AM
Joint pre-trial order due per local rules.

Tentative for 12/10/20:
Status conference continued to: June 24, 2021 @ 10:00 a.m.
Deadline for completing discovery: June 1, 2021
Last date for filing pre-trial motions: June 11, 2021
Pre-trial conference on:
Joint pre-trial order due per local rules.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT... Fariborz Wosoughkia

Chapter 7

Tentative for 6/3/20:
See #8 and 9 @11:00 a.m.

Party Information

Debtor(s):

Fariborz Wosoughkia

Represented By
Carlos F Negrete - INACTIVE -

Defendant(s):

Hamid Rowshan

Pro Se

Fariborz Wosoughkia

Pro Se

Natasha Wosoughkia

Pro Se

WELLS FARGO BANK

Pro Se

Joint Debtor(s):

Natasha Wosoughkia

Represented By
Carlos F Negrete - INACTIVE -

Plaintiff(s):

Richard A Marshack

Represented By
Michael G Spector

Trustee(s):

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

8:20-13315 Gary T Hernandez

Chapter 7

Adv#: 8:21-01015 Morris v. Hernandez

**#9.00 PRE-TRIAL CONFERENCE RE: Complaint For Determination Of
Dischargeability Under 11 USC Section 523(A)(6) Of Debts Of Creditor Victoria
Morrs
(set from s/c hrg held on 8-05-21)**

Docket 1

***** VACATED *** REASON: CONTINUED TO 4-7-22 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO EXTEND PRETRIAL
DATES AND CONTINUE PRETRIAL CONFERENCE ENTERED 1-4-22.**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 8/5/21:
Deadline for completing discovery: November 15, 2021
Last date for filing pre-trial motions: December 6, 2021
Pre-trial conference on: January 6, 2022
Joint pre-trial order due per local rules.

Tentative for 7/1/21:
Still no status report? Why shouldn't the court dismiss?

Tentative for 6/3/21:
Why no status report?

Party Information

Debtor(s):

Gary T Hernandez

Represented By
Michael J Hemming

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

10:00 AM

CONT... Gary T Hernandez

Chapter 7

Defendant(s):

Gary T Hernandez

Pro Se

Plaintiff(s):

Victoria Morris

Represented By
Bruce A Wilson

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

8:18-10762 Jack Richard Finnegan

Chapter 7

Adv#: 8:21-01056 United States Trustee v. Finnegan

#10.00 U.S. Trustee's Motion for Default Judgment

Docket 22

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 1/6/22:

This is the United States Trustee's ("Trustee") motion for entry of a default judgment against debtor/defendant Jack Richard Finnegan ("Defendant"). Defendant filed an opposition titled "Objections to Clerk's Notice of Default...", but as will be discussed below, the opposition does little to persuade the court to deny the motion.

1. The Underlying Facts

The critical facts succinctly prepared by Trustee are as follows:

Trustee filed a complaint on July 22, 2021 objecting to Defendant's discharge pursuant to 11 U.S.C. §727(a)(6)(A) for failing to obey lawful court order to produce documents to the Chapter 7 Trustee and United States Trustee and for Defendant to appear for examination. On August 4, 2021, Defendant mailed to the Office of the United States Trustee a Memorandum to Dismiss the complaint. The Memorandum also contained a counterclaim against the United States of America. Crucially, the Memorandum was neither filed nor properly served on the United States Trustee. Still, Trustee filed and served a Reply to the Memorandum on August 16, 2021 and set the matter for a hearing on September 23, 2021. Although Trustee appeared along with counsel Ilian Alchehayed for the state court-appointed Conservator of the Estate of Jack Richard Finnegan, one Peter C. Kote, the Defendant did not appear.

On September 24, 2021, the Court entered an Order denying Defendant's Motion to Dismiss Complaint and further Ordered Defendant to

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT...

Jack Richard Finnegan

Chapter 7

file and serve a response within 30 days after entry of the Order denying Defendant's Motion to Dismiss but in no event later than October 31, 2021. On November 10, 2021, a status conference was held. The Trustee informed the court that Defendant had not filed a responsive pleading and would be filing a Motion to Entry of Default Judgment. Defendant again did not appear at the status conference. On November 8, 2021, the Office of the United States Trustee filed a Request for Entry of Default. On November 9, 2021, the Clerk entered the Default.

2. Default Judgment Is Appropriate

Default judgments are governed by Fed. R. Civ. P. 55 and are made applicable to this adversary proceeding through Fed. R. Bankr. P 7055. In considering whether to grant a motion for a default judgment, a court asks five questions:

- (1) Does the court have subject matter jurisdiction?
- (2) Does the complaint state a claim for relief?
- (3) Do the factual allegations made in the complaint, which the defendant admits by defaulting, satisfy all of the elements of the claim for relief so as to entitle the plaintiff to the relief demanded?
- (4) Does the court have personal jurisdiction over the defendant based on the facts stated in the certificate of service of the summons and complaint?
- (5) Has the defendant answered or otherwise responded to the complaint, as established by the Clerk's certificate of default and a statement by the movant that it has not received a response? *See Pioneer Credit Co. v. Detamore (In re Detamore)*, 2005 WL 6486098, *1 (Bankr. N.D. Ga. Sept. 27, 2005).

As will be shown, the answer to each question (except #5) is "yes." First, the complaint only has one cause of action seeking denial of Defendant's discharge. Thus, this court has subject matter jurisdiction pursuant to 28 U.S.C. §157(b)(2)(j).

Second, the complaint contains a brief recitation of Defendant's intransigent behavior, including failing to appear at examinations and failing to provide requested documentation to the Trustee as ordered by this court. Thus, this is likely enough to satisfy the pleading requirements of Rule 8 and this prong.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... Jack Richard Finnegan

Chapter 7

Third, to prevail under 11 U.S.C. §727(a)(6)(A), the Plaintiff must prove by a preponderance of the evidence that “1) the Court issued an order directed at the debtor; 2) the order was lawful; 3) the order was not one requiring a response to a material question or to testify, and 4) the debtor refused to obey the order.” *Gillman v. Green (In re Green)*, 335 B.R. 181, 183 (Bankr. D. Utah 2005). Refusal to obey under 11 U.S.C. §727(a)(6) requires “more than a mere failure to obey a lawful court order.” *Green*, 335 B.R. at 184. Some degree of willfulness or volition on the part of the debtor not to obey the order must be present. *Id.* For this reason, inability to comply with the terms of an order can negate a claim under 11 U.S.C. §727(a)(6). See *Morris v. Wright (In re Wright)*, 371 B.R. 472, 480 (Bankr. D. Kan. 2007) (“A debtor’s inability to comply with the order, inadvertence, mistake, or impossibility will ordinarily be insufficient to revoke a debtor’s discharge.”). The party seeking a denial of discharge made under 11 U.S.C. §727(a)(6) must first demonstrate that the debtor received the order and failed to comply with its terms. *Smith v. Jordan*, 521 F.3d 430, 433 (4th Cir. 2008) (citations omitted). The debtor must then explain his or her reason for non-compliance. *Id.*

Here, Trustee’s complaint details the difficulties encountered when dealing with Defendant, which culminated with the appointment of a conservator to administer the personal affairs of Defendant. As the complaint chronicles, the difficulties continued after the appointment of the conservator as Defendant refused to have any contact with the conservator. Both the Chapter 7 Trustee and the U.S. Trustee, pursuant to validly entered lawful court orders attempted, on numerous occasions, to examine the Defendant concerning his assets and liabilities. Most recently, as alleged in the complaint, on April 9, 2021, Trustee filed a motion for an order requiring the Defendant to produce documents and appear for examination. On April 13, 2021, an order was entered granting Trustee’s motion and ordering the Defendant to produce documents and appear for examination. On April 22, 2021, Defendant filed an objection to the motion and the matter was set for a hearing, which was held on June 8, 2021. However, Defendant, despite being duly served and given an opportunity to contest the orders, did not appear. As a result, the court entered an order overruling Defendant’s objection and issued another order compelling the Defendant to appear for examination on

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT...

Jack Richard Finnegan

Chapter 7

July 9, 2021, and to produce documents for inspection on June 29, 2021. As the complaint alleges, Defendant refused to comply with these lawful court orders, and refused to produce documents or appear for examination. These allegations, deemed admitted due to Defendant's failure to file a proper response to the complaint or to this motion, support a cause of action under 11 U.S.C. §727(a)(6)(A). The third prong is satisfied.

Fourth, Defendant has been a litigant in this court since he filed his voluntary petition back on March 6, 2018. This court's personal jurisdiction over Defendant is conclusively established as this adversary proceeding directly impacts Defendant's bankruptcy case and he has been, selectively, an active participant.

Fifth, Defendant never filed a proper answer or response to the complaint, and Trustee has followed the applicable protocols to obtain a default judgment. Defendant has been served with adequate notice at every step. However, Defendant did file an opposition of sorts to this motion, but the opposition does little to rebut any of the allegations set forth in the complaint. Instead, Defendant makes several dubious and unfounded claims, which are not supported by any evidence in the record. For example, Defendant oddly claims this court no longer has jurisdiction because there is an appeal pending in the Ninth Circuit. In reply, Trustee asserts that, notwithstanding the fact the Defendant has been prohibited from initiating litigation pursuant to a court order issued by the Orange County Superior Court, in connection with the appointment of his conservator Peter C. Kote, the appeal the Defendant refers to is captioned *Jack R. Finnegan, Appellant v. T. Albert, Appellee*, Central District of California Case Number 21-55894. That appeal, Trustee reports, was dismissed by the United States Court of Appeals for the Ninth Circuit on December 9, 2021. Consequently, Defendant is incorrect as there is no pending appeal before the Ninth Circuit.

3. Defendant's Arguments:

Defendant argues that this is not a case in chapter 7. Defendant is simply wrong here. It clearly is and has been since the conversion order issued on September 14, 2018. Defendant next argues that the party in default is actually the U.S. Trustee's Office. Trustee asserts that this is a puzzling argument, and no sense can be made of it due to the lack of

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT...

Jack Richard Finnegan

Chapter 7

evidence or even explanation. In any case, Trustee correctly points out that even if the U.S. Trustee were somehow in default, that would have no bearing on this motion.

Defendant then digresses into a series of *ad hominem* attacks on the character and conduct of this court, the U.S. Marshals Service, and the U.S. Trustee's Office. Defendant asserts that he has been the victim of criminal acts perpetrated by those entities but provides no further details or documentation beyond vague reference to lawsuits that may not even exist.

Finally, Defendant asserts, without any supporting analysis, that this case involves a misapplication of 11 U.S.C. section 542. Trustee in reply surmises that Defendant is referring to the turnover action initiated by the Chapter 7 Trustee to oust the Defendant from his residence in San Clemente. However, as Trustee points out, that action was taken pursuant to a lawful court order.

In sum, Defendant has not rebutted or even substantively responded to the allegations in the complaint and has given this court no reason to set aside or vacate the entry of default. Unfortunately, Defendant appears to be as stubborn and self-destructive as ever. By contrast, Trustee's motion is well-supported with evidence from the record and makes a straightforward *prima facie* case for the righteousness of the complaint. Thus, for these reasons, the motion will be *granted*.

Party Information

Debtor(s):

Jack Richard Finnegan

Pro Se

Defendant(s):

Jack Richard Finnegan

Pro Se

Plaintiff(s):

United States Trustee

Represented By
Frank Cadigan

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... Jack Richard Finnegan

Chapter 7

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Laila Masud

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

8:19-10158 BP Fisher Law Group, LLP

Chapter 7

Adv#: 8:20-01100 Peleus Insurance Company v. BP Fisher Law Group, LLP et al

**#11.00 STATUS CONFERENCE RE: Adversary Complaint for Declaratory Relief
(cont'd from 10-28-21)**

Docket 1

***** VACATED *** REASON: CONTINUED TO 3-10-22 AT 11:00 A.M.
PER ORDER APPROVING STIPULATION FOR CONTINUANCE OF
STATUS CONFERENCE AND MOTIONS TO DISMISS OF MATTHEW
BROWNDORF AND ANDREW CORCORAN ENTERED 1-5-2022**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 10/28/21:
Continue to January 6, 2022 at 11:00 a.m. Appearance waived.

Tentative for 6/24/21:
See #s 17 and 18. What is status on withdrawal of reference? Continue to
August 26 @ 11:00 a.m.

Tentative for 4/22/21:
Continue to June 23 @ 10:00AM to allow district court's ruling.

Tentative for 12/10/20:
Continue to April 22, 2021 @ 10:00 a.m.

Appearance: optional

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... BP Fisher Law Group, LLP

Chapter 7

Tentative for 9/3/20:

It would appear there are several preliminary questions concerning jurisdiction and proper venue. It makes sense to sort these out first before discovery commences and deadlines are imposed. Consequently, the status conference will be continued to December 10, 2020 @ 2020. In meantime, the parties are ordered to file such motions as are necessary and appropriate to resolve the questions about proper venue and /or withdrawal of reference. By the continued status conference the court expects those issues to be resolved.

Party Information

Debtor(s):

BP Fisher Law Group, LLP

Represented By
Marc C Forsythe
Michael S Myers

Defendant(s):

BP Fisher Law Group, LLP

Pro Se

LF Runoff 2, LLC

Pro Se

Matthew Browndorf

Pro Se

Andrew Corcoran

Pro Se

Shannon Kreshtool

Pro Se

Ditech Financial, LLC

Pro Se

SELECT PORTFOLIO

Pro Se

BP Peterman Legal Group, LLC

Pro Se

Plaintiff(s):

Peleus Insurance Company

Represented By
Linda B Oliver
Andrew B Downs

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... BP Fisher Law Group, LLP

Chapter 7

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang
Marc C Forsythe
Charity J Manee

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

8:19-10158 BP Fisher Law Group, LLP

Chapter 7

Adv#: 8:20-01100 Peleus Insurance Company v. BP Fisher Law Group, LLP et al

**#12.00 Andrew R. Corcoran's Motion To Dismiss Or In The Alternative Stay Or Transfer
(cont'd from 10-28-21)**

Docket 38

***** VACATED *** REASON: CONTINUED TO 3-10-22 AT 11:00 A.M.
PER ORDER APPROVING STIPULATION FOR CONTINUANCE OF
STATUS CONFERENCE AND MOTIONS TO DISMISS OF MATTHEW
BROWNDORF AND ANDREW CORCORAN ENTERED 1-5-2022**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 10/28/21:
See #8.

Tentative for 6/24/21:
Status of withdrawal of reference?

Tentative for 4/22/21:
The stay should likely remain in effect until after Judge Kronstadt has issued a ruling on the motion to withdraw the reference. By that time, the District Court in Maryland will likely have ruled on the 12(b)(7) motion and we will have a much clearer picture of what is and needs to be happening to move this matter forward, including revisiting this motion.

Stay proceedings pending a renewed status conference in approximately 45 days.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... BP Fisher Law Group, LLP

Chapter 7

Tentative for 12/10/20:

This is a Motion to Dismiss this adversary proceeding based on lack of personal jurisdiction pursuant to Fed. R. Civ. P. 12(b)(2), or in the alternative, to stay or transfer this adversary proceeding, of defendant Andrew Corcoran joined by Defendant Matthew Browndorf (collectively "Defendants"). The motion is opposed by plaintiff, Peleus Insurance Company ("Plaintiff").

1. Defendants' Alternative Remedy of Staying This Adversary Proceeding Is Warranted

The parties report that there is a matter currently pending in Maryland District Court that involves the substantially the same parties and subject matter. Furthermore, that matter was initiated several months prior to this adversary proceeding. Plaintiff believes that this court is the proper venue as it argues that this court can exercise personal jurisdiction over all necessary parties. Plaintiff also reports that there is a motion to dismiss in the Maryland matter based on an alleged failure to join a necessary party under Rule 12(b) (7). Plaintiff believes that motion to dismiss will succeed. Defendants believe the Maryland motion to dismiss will fail and assert that this court cannot properly exercise personal jurisdiction.

According to the status report filed on 12/3, Plaintiff reports that the Maryland motion to dismiss is expected to be fully briefed by 12/14 (just after the hearing on this motion). The hearing date for the Maryland motion to dismiss is unknown, but likely not too long after the completion of the briefing. Plaintiff has also filed a motion with the District Court of the Central District of California to withdraw the reference. That motion is set for hearing before Judge Kronstadt on March 29, 2021.

There is a lot going on in this case to say the least. The motion and subsequent papers indicate that the threshold issue of personal jurisdiction is likely to be complex and hotly contested. There are also two pending motions

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... BP Fisher Law Group, LLP

Chapter 7

that could have a major impact on this adversary proceeding, but the outcome of those motions is obviously uncertain at present. Matters will clarify one way or another soon. Thus, for reasons of judicial economy, comity, deterrence of potential forum shopping, and the need to avoid parallel litigation and/or inconsistent rulings, this court will grant a stay of proceedings as an alternative form of relief as suggested in the motion. This relief can likely be justified under the "First to File" doctrine, a discretionary rule in which the court must consider whether a complaint containing the same issues and parties has already been filed in another district. *Alltrade, Inc. v. Uniweld Prods.*, 946 F.2d 622, 625 (1991). This rule is not to be applied mechanically or too rigidly and the policy underlying the rule should not be disregarded lightly. *Id.* at 625, 627-28. In other words, the rule does not require perfect identity of issues and parties. See *Audio Entertainment Network, Inc. v. AT&T*, 1999 U.S. App. LEXIS 34500 at *3. "[I]t is not an abuse of discretion, and therefore not reversible error, for a district court judge to weigh the facts and conclude that the rule should apply." *Alltrade*, 946 F.2d at 628.

The stay should likely remain in effect until after Judge Kronstadt has issued a ruling on the motion to withdraw the reference in late March or early April. By that time, the District Court in Maryland will likely have also ruled on the 12(b)(7) motion and we will have a much clearer picture of what is and needs to be happening to move this matter forward, including potentially revisiting this motion.

Grant a temporary stay of proceedings pending the outcome of both the Maryland motion to dismiss and the motion to withdraw the reference. A continued status conference is scheduled April 8, 2021 at which time the court requires a full update and, if then appropriate consistent with other rulings, will establish deadlines.

Party Information

Debtor(s):

BP Fisher Law Group, LLP

Represented By
Marc C Forsythe

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... BP Fisher Law Group, LLP

Chapter 7

Michael S Myers

Defendant(s):

BP Fisher Law Group, LLP

Represented By
Marc C Forsythe

LF Runoff 2, LLC

Pro Se

Matthew Browndorf

Pro Se

Andrew Corcoran

Pro Se

Shannon Kreshtool

Represented By
Samuel G Brooks

Ditech Financial, LLC

Represented By
Christopher O Rivas

SELECT PORTFOLIO

Represented By
Lauren A Deeb

BP Peterman Legal Group, LLC

Pro Se

Plaintiff(s):

Peleus Insurance Company

Represented By
Linda B Oliver
Andrew B Downs

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang
Marc C Forsythe
Charity J Manee

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

8:19-10158 BP Fisher Law Group, LLP

Chapter 7

Adv#: 8:20-01100 Peleus Insurance Company v. BP Fisher Law Group, LLP et al

#13.00 Matthew C. Browndorf's Motion To Dismiss Or In The Alternative Stay Or Transfer
(cont'd from 1-28-21)

Docket 43

***** VACATED *** REASON: CONTINUED TO 3-10-22 AT 11:00 A.M.
PER ORDER APPROVING STIPULATION FOR CONTINUANCE OF
STATUS CONFERENCE AND MOTIONS TO DISMISS OF MATTHEW
BROWNDORF AND ANDREW CORCORAN ENTERED 1-5-2022**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

Tentative for 10/28/21:
See #8.

Tentative for 6/24/21:
Status of withdrawal of reference?

Tentative for 4/22/21:
See #7

Tentative for 12/10/20:
See #12.

Party Information

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, January 6, 2022

Hearing Room

5B

11:00 AM

CONT... BP Fisher Law Group, LLP

Chapter 7

Debtor(s):

BP Fisher Law Group, LLP

Represented By
Marc C Forsythe
Michael S Myers

Defendant(s):

BP Fisher Law Group, LLP

Represented By
Marc C Forsythe

LF Runoff 2, LLC

Pro Se

Matthew Browndorf

Pro Se

Andrew Corcoran

Pro Se

Shannon Kreshtool

Represented By
Samuel G Brooks

Ditech Financial, LLC

Represented By
Christopher O Rivas

SELECT PORTFOLIO

Represented By
Lauren A Deeb

BP Peterman Legal Group, LLC

Pro Se

Plaintiff(s):

Peleus Insurance Company

Represented By
Linda B Oliver
Andrew B Downs

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
David Wood
Tinho Mang
Marc C Forsythe
Charity J Manee